admitted to corroborate the fact of payment. Even if this is good law in England, it is doubtful if it is good law here because section 14 of the Evidence Ordinance only refers to a state of mind. The question then is, was the evidence properly led to anticipate the defence? I think it was because, even if the defence were not put up, the prosecution must prove dishonesty as part of the substantive offence. Therefore as the duty of the prosecution is to prove the charge substantively irrespective of the defence, I think the evidence was admissible for that purpose, irrespective of the question of anticipating the defence. It follows that the appeal must be dismissed.

Appeal against conviction dismissed.
Sentence reduced.

Solicitors: *Allen & Gledhill.*

TEO KOON SENG v. REX

[A. Cr. J. (Terrell J.) October 3, 1935]

[Singapore Magistrate's Appeal No. 21 of 1935]

Admissibility of evidence — Evidence of system.

It is not competent for the prosecution to adduce evidence tending to show that the accused has been guilty of criminal acts other than those covered by the indictment for the purpose of leading to the conclusion that the accused is a person likely from his criminal conduct and character to have committed the offence for which he is being tried. Such evidence may however be relevant if it bears upon the question whether the acts alleged to constitute a crime charged in the indictment were designd or accidental, or to rebut a possible defence.

Makin v. *The Attorney-General* of N.S.W. [1894] A.C 57 followed.

Battenberg for the appellant.

Worley, Deputy Public Prosecutor, for the Crown.

The facts and arguments sufficiently appear from the judgment.

Terrell J.: The appellant was charged at the instance of one Chang Ah Ngau with extortion on three separate occasions and was convicted. According to the evidence, which was apparently accepted by the learned Magistrate, the accused sent one Teo Ah Chik to the complainant's house and Teo Ah Chik prevailed on the complainant to come to the accused's house where, under threats of exposure to the Protector of Chinese, he extracted money from her. Ah Chik was charged with abetment and also convicted. The exposure threatened was that the complainant was not properly married to the man with whom she was living.

In support of the prosecution two witnesses were called to prove that the accused was in the habit of extorting money from other people. Both witnesses were admittedly prostitutes and stated that they had paid money to the accused to avoid being reported to the Protectorate. Counsel for the defence objected to such evidence being admitted but were overruled. All that the learned Magistrate says on the subject is this:

"This brings in the 'system' evidence to which the counsel object. I consider that it can be admitted though, of course, it does not prove the main charges and must be ignored for the purpose of assessing the punishment."

With all respect to the learned Magistrate, if it was not admitted for proving the main charges, I fail to see its relevance. The law on the subject has been stated again and again by Courts of the highest authority and it is not necessary to review all the cases. In my opinion the law is succinctly summarised in the judgment of Lord Herschell in *Makin* v. *The Attorney-General of N.S.W.,* [1894] A.C. p. 57, in a passage which is quoted with approval by A. T. Lawrence J in *Rex* v. *Bond,* [1906] 2 K.B. at p. 420. The passage from the judgment of Lawrence J. reads as follows:—

"The general rule is stated by Lord Herschell in these terms: 'It is undoubtedly not competent for the prosecution to adduce evidence tending to show that the accused has been guilty of criminal acts other than those covered by the indictment, for the purpose of leading to the conclusion that the accused is a person likely from his criminal conduct or character to have committed the offence for which he is being tried. On the other hand, the mere fact that the evidence adduced tends to show the commission of [11] other crimes [11] does not render it inadmissible if it be relevant to an issue before the jury, and it may be so relevant if it bears upon the question whether the acts alleged to constitute the crime charged in the indictment were designed or accidental or to rebut a defence which would otherwise be open to the accused.' The relevance depends upon the issues actually in contest; whenever it is in issue whether the prisoner, though he did the act alleged, did it without any intention, i.e. accidentally, without any criminal intention, i.e. innocently, such evidence may be given."

Can it be said in the present case that it was an issue before the Court whether the accused received the money accidentally or innocently? It appears to me to be abundantly clear that if the story of the complainant is accepted the accused's intention was necessarily dishonest. If he was a person who made his living as an informer and through an intermediary induced a woman he did not know to come to his house and obtained money from her, what innocent explanation is possible? It is also clear that no such defence was ever indicated in the cross-examination of prosecution witnesses, and, in the circumstances of the case, it is to my mind quite inconceivable that such a defence could have been put forward. Take the case of theft. Is it permissible for the prosecution to bring forward evidence of other thefts upon which the accused has never been prosecuted in order to prove that when he entered the house of a complete stranger he removed articles not belonging to him with a dishonest intention? As Bray J. says in *Rex* v. *Bond,* [1906] 2 K.B. at p. 415, "a number of acts of theft do not as a rule constitute a system. They are isolated acts having no connection with one another."

I have been referred to a judgment of Burton Ag. C.J. in a recent criminal appeal, *Rex* v. *James,* No. 11 of 1935, which has not yet been reported but which it is said was cited to the learned Magistrate, though it is not referred to by him in his grounds of judgment. The learned Judge held in that case that evidence of other acts of extortion was admissible to anticipate a possible defence, and that even if the defence was not put up the prosecution were entitled to prove dishonesty as part of their substantive case. I regret that I am unable to accept this ruling as being of general

application. In the present case I am satisfied, however, that it was not open to the prosecution to call evidence to anticipate a supposed defence which was never put up and which was never likely to be put up. When it is remembered that a dishonest intention is an essential element of every crime of this class it will be realised how dangerous it would be to admit evidence of other offences to prove dishonesty where such other evidence had no other connection with the issues before the Court. It would be only a short step to admit evidence tending to show that the accused was a bad character on the specious plea that the prosecution must be allowed to prove that the accused had a dishonest intention when he committed the particular crime with which he was charged.

In the case before me, notwithstanding the learned Magistrate's remarks as quoted above, I think that the evidence of system, which I consider inadmissible, must have influenced the learned Magistrate in recording a conviction. The prosecution evidence apart from the evidence of system was far from strong, and I am certainly not prepared to find that without such evidence there was sufficient evidence to justify the decision. The appeal therefore will be allowed and the convictions quashed and the sentence set aside.

Appeal allowed.

PHILIP HOALIM v. AMALGAMATED THEATRES LIMITED

[O.C.J. (Terrell J.) June 20, 1935]
[Singapore Suit No. 598 of 1934]

Practice — Interrogatories — Answers by secretary of a company — Inconsistency with sworn statement made by anothr officer of the company in a previous case — Striking out — Jurisdiction of Court.

In an action for damages for wrongful arrest and false imprisonment against a company the plaintiff delivered interrogatories the answers to which were made by the secretary of the company. The answers to some of the interrogators were professed to be based on information obtained from another officer of the company who had given evidence in certain proceedings in the Police Court, upon which the present suit was founded. Such answers contradicted the sworn evidence given at the Police Court. In an application to strike out the answers as being a sham and an abuse of the process of the Court,

Held: that the inherent jurisdiction of the Court to order the striking out of answers to interrogatories cannot be invoked in the present case, the inconsistent statements being made by two different members of the company.

Summonses in Chambers adjourned into open Court and heard together.

Walters for the plaintiff (applicant).

Briggs for the defendants (respondents).

The facts and arguments are sufficiently stated in the judgment.

Cur. Adv. Vult.

Terrell J.: By an order dated the 8th February, 1935, the plaintiff was given liberty to deliver certain interrogatories referred to on the summons. The interrogatories were to be answered by the defendants "by their secretary or other proper officer."

The interrogatories were answered by the affidavit of Alfred Weber, the secretary of the defendant company, in an affidavit sworn on the 20th February, 1935.

[12] The relevant interrogatories and answers are as follows:— [12]

Interrogatories.	Answers.
3. Shortly prior to the time when the plaintiff sought admission as aforesaid or at what hour did not the said Walter Dennis Lambert as such manager call two or how many constables from the front of the said theatre or whence into the precincts of the said theatre or whither? State the names and the numbers respectively of the two constables?	3. In answer to the third interrogatory I say that the said Walter Dennis Lambert did not at such time as suggested or at any time on the said day as such manager or otherwise call two or any constables from the front of the theatre into the precincts of the said theatre or anywhere.
4. Were not the constables, police constables 1528 and 379? Were not their respective names Said Shah and Sardar Shah?	4. In answer to the fourth interrogatory, I crave leave to refer to the answer to the third interrogatory.
5. Did not the said Walter Dennis Lambert forthwith or when post the two said constables or whom outside one of the two doors leading into the auditorium on the ground floor of the said theatre from the inner vestibule? If nay, where did he post the said two constables and each of them? If Yea, was not the door at which they were so posted the door on the right hand side of the inner vestibule looking towards the stage of the said theatre? Did he not instruct the two said constables or what constables or constable after so posting them as aforesaid not to allow anyone to get into the said theatre? If nay, what instructions did he give the two said constables or either and which of them?	5. In answer to the fifth interrogatory, I say that the said Walter Dennis Lambert did not forthwith or at any time post the two said constables or either of them outside the said door or anywhere. He did not instruct the two said constables or any constables or constable not to allow any one to get into the said theatre. Nor did he give any instructions to the two said constables or either of them. He did post two of the watchmen employed by the defendant company outside one of the two doors leading into the auditorium on the ground floor of the theatre from the inner vestibule.
	10. The above answers are all made to the best of my information and belief such information being obtained for the most part from the said Walter Dennis Lambert.

The plaintiff being dissatisfied with these answers has applied to the Court by two summonses Nos. 285 and 296 which are complementary to one another.

S/C 285 asks that the said Walter Dennis Lambert answer interrogatories 3, 4 and 5 and S/C. 296 asks that the answers to interrogatories 3, 4 and 5 be struck out and that the defendants by their secretary or other proper officer answer or further answer the interrogatories in question.

The summonses were adjourned into open court and came on for hearing together.

The basis of the plaintiff's objection is that Lambert in the course of evidence given on oath before the Police Court, when the plaintiff was charged with assaulting the two Police constables in question, gave evidence at variance with the answers now given by the secretary and which he professes to give upon information given to him by Lambert himself. In these circumstances the plaintiff submits that the answers are a sham and an abuse of the process of the Court and should be struck out under the Court's inherent jurisdiction. The plaintiff further objected